



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,890	02/12/2004	Kazutaka Ando	450100-04933	7259

7590 08/06/2008
FROMMER LAWRENCE & HAUG LLP
745 FIFTH AVENUE
NEW YORK, NY 10151

EXAMINER

FEATHERSTONE, MARK D

ART UNIT	PAPER NUMBER
----------	--------------

2623

MAIL DATE	DELIVERY MODE
-----------	---------------

08/06/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/777,890	Applicant(s) ANDO ET AL.	
	Examiner MARK D. FEATHERSTONE	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Amendment

Response to amendment filed 06/13/2008. Claims 1-3, 8-11, and 15-17 are amended. Claims 1-17 are pending.

Response To Arguments

Applicant's arguments with respect to claims 1-3, 8-11, and 15-17 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
2. Claims 1-12, and 14-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Prokopenko et al, US Patent # 7188355, hereafter Prokopenko, in view of Gerace, US Patent # 5848396, hereafter Gerace, in further view of Schlack et al US Patent # 7260823, hereafter Schlack.

With regard to claim 1, Prokopenko discloses:

An information management system comprising:

a center processing apparatus for performing user-information analysis (column 6, lines 15-22; Prokopenko discloses an "avatar agent" that collects user information and analyzes it); and a

plurality of information processing apparatuses for storing user information
(column 9, lines 45-47) wherein:

said center processing apparatus comprises:

acquiring means for acquiring user information collected from each of the
information processing apparatuses (column 9, lines 54-59);

analyzing means for analyzing the user information acquired by said
acquiring means (column 9, lines 59-62);

user-information recording means for recording, in a database, the
information obtained by the analysis by said analyzing means (column 10, lines
46-56 (Prokopenko describes storing the updated user profile obtained from the
analysis) ;

selecting means for selecting, based on the user information obtained by
the analysis by said analyzing means, optimal procedures for users of the
information processing apparatuses (column 9, lines 66-67; Prokopenko
describes the set of recommendations being sent to the Avatar manager) ;

providing means for providing the users with the optimal procedures
selected by said selecting means (column 10, lines 1-3)

each of said information processing apparatuses comprises:

operation-information accepting means for accepting operation
information from the user (Figure 1A, item 35 and column 6, lines 13-15);

signal processing means for processing an input signal, based on the operation information accepted by said operation-information accepting means (The system of Prokopenko inherently process the input signal containing operation information when it is received); and

storage means for storing, as the user information, the operation information concerning the input signal (column 9, lines 45-47)

Prokopenko fails to disclose that the user information that is collected pertains to parameter changes of an image or audio on an operation by a user. Gerace discloses a system that determines a behavioral profile of a computer user over time by monitoring user actions and tailoring screen views to the user preferences (column 17, lines 1-17; Gerace describes that preferences such as colors, layout, etc are monitored by the program and the program is then able to automatically tailor the display/format of the screen according to the preferences). Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to add the feature of monitoring image choices (such as colors, layout) as defined by Gerace to the system as taught by Prokopenko that similarly analyzes information to target content/services to the user.

Prokopenko, in view of Gerace fail to disclose that the system monitors changes in volume and stores changes in volume to a user profile. Schlack discloses a profiling system that monitors user interactions with a set-top-box and stores them to a user profile for analysis (Figure 2B, item 292 and column 12,

line 65 - 10; Schlack clearly describes monitoring volume changes and adding them to a user profile). Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system Prokopenko, in view of Gerace to include the volume control commands in the user profile in order to further define user preferences and tailor content/services to the user.

Claim 2, as applied to claim 1, is rejected as the method of corresponding system claim.

Claim 3, is the center processing apparatus as disclosed in claim 1, and is rejected as applied to the claim 1 rejection.

With regard to claim 4, Prokopenko, in view of Gerace, in further view of Schlack discloses:

A center processing apparatus according to claim 3 (see claim 3 rejection).

Schlack further discloses the following:

wherein said selecting means includes determining means which calculates a variation in the user information and which determines whether or not the variation is greater than a predetermined threshold, and said selecting means classifies the users into predetermined groups based on the result of determination by said determining means. Specifically, Schlack discloses calculating variances in viewer behavior and placing viewers in predefined groups based on meeting specific behavioral thresholds (Column 26, line 64 - column 27, line; Schlack discusses the determining of a particular user/group by

the use of thresholds. For example, based on how slowly or fast a particular person changes channels is a factor in determining what particular user is operating the TV)

A person of ordinary skill in the art at the time of invention would have found it obvious to add this feature as taught by Schlack in order to recommend a programming schedule/viewer procedure based on the viewing habits of a particular viewer or viewer group. The advantage of such a system would have been to provide more targeted content and therefore more effective advertising.

Claim 5, as applied to claim 4, is the system of claim 4 with the added feature of recording the optimal procedures derived based on the specific group. Prokopenko discloses the feature of storing the results of a pattern list based on user actions that would define a group (column 11, lines 9-16; Prokopenko specifically discloses storing the results of a generalization algorithm).

With regard to claim 6, as applied to claim 4 Prokopenko, in view of Schlack, in further view of Gerace discloses:

A center processing apparatus according to claim 4 (see claim 4 rejection):

Prokopenko further discloses a basic part determining means which, based on the result of determination by said determining means, acquires one procedure from said procedure recording means, and which, based on the acquired procedure, determines a basic part of a function to be provided to the user

(column 9, lines 59-65; Prokopenko describes determining a recommendation list to be provided to the user); and

unique part determining means which, based on the user information analyzed by said analyzing means, determines a part unique to the user in the function (column 10, lines 57-66; Prokopenko describes associating particular viewing habits with particular shows).

With regard to claim 7, Prokopenko, in view of Schlack, in further view of Gerace, discloses:

A center processing apparatus according to claim 4 (see claim 4 rejection).

Schlack, further teaches the updating of the threshold based on user information (column 30, lines 34-41; Schlack describes a rolling window of time in which, based on user interactions, raises or lowers the threshold)

It would have been obvious to one of ordinary skill in the art at the time of invention to add this feature, as taught by Schlack. The advantage of doing this would have been to provide a more updated user profile.

Claim 8 is the method of acquiring, analyzing, and selecting optimal procedures for a user as disclosed in claim 1, and is rejected as applied to claim

Claim 9 is the program to drive the system of claim 1, and is rejected on this basis. The system as taught by Prokopenko, in view of Gerace, in further view of Schlack, inherently is driven by a program.

Claim 10 is rejected as applied to claim 9. The system as taught by Prokopenko in view of Gerace, in further view of Schlack, is inherently driven by a program read from a medium with recorded instructions.

With regard to claim 11, Prokopenko discloses:

An information processing apparatus comprising:
operation-information accepting means for accepting operation information from a user (column 7, lines 35-37; Prokopenko describes sending user information from a user to the avatar agent for processing); signal-processing means for processing an input signal in accordance with a predetermined procedure, based on the operation information accepted by said operation-information accepting means (column 7, lines 41-48; the avatar agent collects the data input by the user (via a remote control) based on the type of information); and
storage means for storing, as user information to be provided to a provider of said information processing apparatus, the operation information and information concerning the input signal (column 9, lines 44-47), wherein the procedure is determined based on past user information for the user (column 7, lines 18-25; Prokopenko describes information from a past user being input by selecting an animation character on a screen. If the user is identified, past information would be used as part of the recommendation procedure)

Prokopenko fails to disclose that the user information that is collected pertains to parameter changes of an image or audio on an operation by a user. Gerace discloses a system that determines a behavioral profile of a computer

user over time by monitoring user actions and tailoring screen views to the user preferences (column 17, lines 1-17; Gerace describes that preferences such as colors, layout, etc are monitored by the program and the program is then able to automatically tailor the display/format of the screen according to the preferences). Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to add the feature of monitoring image choices (such as colors, layout) as defined by Gerace to the system as taught by Prokopenko that similarly analyzes information to target content/services to the user.

Prokopenko, in view of Gerace fail to disclose that the system monitors changes in volume and stores changes in volume to a user profile. Schlack discloses a profiling system that monitors user interactions with a set-top-box and stores them to a user profile for analysis (Figure 2B, item 292 and column 12, line 65 - 10; Schlack clearly describes monitoring volume changes and adding them to a user profile). Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system Prokopenko, in view of Gerace to include the volume control commands in the user profile in order to further define user preferences and tailor content/services to the user.

With regard to Claim 12, Prokopenko discloses:

The apparatus of claim 11 with the addition of the ability to store the value of a parameter set by the user and a time that the parameter is set by the user (In

column 9, lines 48-54; Prokopenko describes the user has requested a particular day, which would correspond to a parameter, and a particular time that corresponds to that parameter)

With regard to claim 14, Prokopenko discloses:

An information processing apparatus according to claim 11, wherein said signal processing means is removable from said information processing apparatus (column 25, lines 44-48, Prokopenko discloses the application program, which would process the incoming signal, can be resident on a removable medium).

Claim 15 is the method of claim 11, and is rejected on this basis.

Claim 16 is the program to drive the system of claim 11, and is rejected on this basis. The system of Prokopenko is inherently driven by computer instructions.

Claim 17 is rejected as applied to claim 16. The system as taught by Prokopenko is inherently driven by a program read from a medium with recorded instructions.

3. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Prokopenko, in view of Schlack, in further view of Gerace, in further view of Kondo, US Patent # 6381369.

With regard to claim 13, Prokopenko, in view of Schlack, in further view of Gerace discloses:

The information processing apparatus according to claim 11,

However, he fails to disclose the following:

wherein said signal processing means performs an image creating process by performing classification adaptive processing on an input information signal

Kondo, in his application does disclose this feature (Figure 7 and column 13, lines 63-67)

A person of ordinary skill in the art at the time of invention would have found it obvious to combine this feature as taught by Kondo to the system of Prokopenko, in view of Schlack, in further view of Gerace in order to decode signal streams with different resolutions. The advantage would have been the ability to view signals of different formats.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will

the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARK D. FEATHERSTONE whose telephone number is (571)270-3750. The examiner can normally be reached on 8:00 AM - 5:00 PM M-F US Eastern.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Koenig can be reached on (571) 272-7296. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark Featherstone/ - Assistant Examiner

Application/Control Number: 10/777,890

Page 13

Art Unit: 2623

/Andrew Y Koenig/
Supervisory Patent Examiner, Art Unit 2623